

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DUONG DUC NGUYEN,

Petitioner,

v.

STEPHEN D. SINCLAIR,

Respondent.

No. C09-1435RSL

ORDER DENYING MOTION FOR  
RELIEF FROM JUDGMENT

This matter comes before the Court on petitioner's "Motion for Relief from Judgment." Dkt. # 28. The judgment from which petitioner seeks relief was entered on March 10, 2010. Because petitioner's motion is based on either a mistake (Rule 60(b)(1)) or newly discovered evidence (Rule 60(b)(2)), it should have been filed on or before March 10, 2011, pursuant to Rule 60(c)(1). Petitioner may not rely on the catchall provision of Rule 60(b)(6) where the reasons for his motion fall squarely within one or more of the preceding subsections. Lyon v. Agusta S.P.A., 252 F.3d 1078, 1088-89 (9th Cir. 2001). Petitioner's request for relief from judgment is therefore untimely.

Even if the Court were to consider petitioner's motion on its merits, he has not shown that relief from judgment is appropriate. The Washington Court of Appeals recently dismissed petitioner's direct appeal of the amended judgment for lack of standing: petitioner was not "an aggrieved party" for purposes of Washington Rule of Appellate Procedure 3.1 and therefore could not appeal the judgment. Thus, the statute of limitation on this habeas action

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1 commenced to run no later than June 22, 2007, when the trial court entered the amended  
2 judgment. The new evidence submitted by petition does not establish error in the Court's prior  
3 rulings.

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5 For all of the foregoing reasons, petitioner's motion for relief from judgment (Dkt.  
6 # 28) is DENIED.

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8 Dated this 22nd day of August, 2012.

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10 Robert S. Lasnik  
11 United States District Judge  
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